

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6491 OF 2007

Zensar Technologies Limited & Anr. : Petitioners
V/s.

Transmarine Corporation & Ors. : Respondents

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Mr.D.D.Madon, Senior Advocate, with Mr.B.P.Colabawala,
Mr.P.S.Colabawala and Mr.Billimoria i/b. Desai & Chinoy
for the petitioners.

Mr.J.F.Pochkhanawalla, Senior Advocate, with Mr.H.S.Vakil
i/b. M/s.Mulla & Mulla & Craigie Blunt & Caroe for the
respondents.

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CORAM : S.A.BOBDE, J.

DATE : SEPTEMBER 05, 2007.

P.C.

After hearing the matter for some time, it seems
appropriate that the order disposing of this Writ Petition
would be as follows:-

O R D E R

- (i) The order rejecting the petitioners-defendants'
application for amendment to the Written Statement

does not call for any interference since it is intended to prevent the petitioners from retracting the admission made earlier. Nonetheless, there is no doubt about the correctness of the claim on behalf of the petitioners that the mere admission by the defendants, direct or indirect, about the plaintiffs' title cannot ipso facto be held to confer title on the plaintiffs and the plaintiffs nonetheless will have to prove their title by evidence. Mr. Pochkhanawalla, the learned counsel for the respondents, does not dispute the correctness of this proposition of law. In this context, it may be noted that the Supreme Court has in the case of Ambika Prasad v. Ram Ekbal Rai (AIR 1966 S.C. 605) observed that "title cannot pass by mere admission".

(ii) Hence, the trial Court is directed to decide the issue which involves the plaintiffs' title, in accordance with law, and also on the basis of evidence other than the admission of the petitioners.

(iii) The Writ Petition stands disposed of.

S.A. BOBDE, J.